



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 2335

2 AMENDMENT NO. _____. Amend Senate Bill 2335 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Sections 19-105 and 19-111 as follows:

6 (220 ILCS 5/19-105)

7 Sec. 19-105. Definitions. For the purposes of this Article,
8 the following terms shall be defined as set forth in this
9 Section.

10 "Alternative gas supplier" means every person,
11 cooperative, corporation, municipal corporation, company,
12 association, joint stock company or association, firm,
13 partnership, individual, or other entity, their lessees,
14 trustees, or receivers appointed by any court whatsoever, that
15 offers gas for sale, lease, or in exchange for other value
16 received to one or more customers, or that engages in the

1 furnishing of gas to one or more customers, and shall include
2 affiliated interests of a gas utility, resellers, aggregators
3 and marketers, but shall not include (i) gas utilities (or any
4 agent of the gas utility to the extent the gas utility provides
5 tariffed services to customers through an agent); (ii) public
6 utilities that are owned and operated by any political
7 subdivision, public institution of higher education or
8 municipal corporation of this State, or public utilities that
9 are owned by a political subdivision, public institution of
10 higher education, or municipal corporation and operated by any
11 of its lessees or operating agents; (iii) natural gas
12 cooperatives that are not-for-profit corporations operated for
13 the purpose of administering, on a cooperative basis, the
14 furnishing of natural gas for the benefit of their members who
15 are consumers of natural gas; and (iv) the ownership or
16 operation of a facility that sells compressed natural gas at
17 retail to the public for use only as a motor vehicle fuel and
18 the selling of compressed natural gas at retail to the public
19 for use only as a motor vehicle fuel.

20 "Gas utility" means a public utility, as defined in Section
21 3-105 of this Act, that has a franchise, license, permit, or
22 right to furnish or sell gas or transportation services to
23 customers within a service area.

24 "Non-tariffed service" means any service provided by an
25 alternative gas supplier to a residential customer or a small
26 commercial customer.

1 "Residential customer" means a customer who receives gas
2 utility service for household purposes distributed to a
3 dwelling of 2 or fewer units which is billed under a
4 residential rate or gas utility service for household purposes
5 distributed to a dwelling unit or units which is billed under a
6 residential rate and is registered by a separate meter for each
7 dwelling unit.

8 "Sales agent" means any employee, agent, independent
9 contractor, consultant, or other person that is engaged by the
10 alternative gas supplier to solicit customers to purchase,
11 enroll in, or contract for alternative gas service on behalf of
12 an alternative gas supplier.

13 "Service area" means (i) the geographic area within which a
14 gas utility was lawfully entitled to provide gas to customers
15 as of the effective date of this amendatory Act of the 92nd
16 General Assembly and includes (ii) the location of any customer
17 to which the gas utility was lawfully providing gas utility
18 services on such effective date.

19 "Single billing" means the combined billing of the services
20 provided by both a natural gas utility and an alternative gas
21 supplier to any customer who has enrolled in a customer choice
22 program.

23 "Small commercial customer" means a nonresidential retail
24 customer of a natural gas utility who consumed 5,000 or fewer
25 therms of natural gas during the previous year; provided that
26 any alternative gas supplier may remove the customer from

1 designation as a "small commercial customer" if the customer
2 consumes more than 5,000 therms of natural gas in any calendar
3 year after becoming a customer of the alternative gas supplier.
4 In determining whether a customer has consumed 5,000 or fewer
5 therms of natural gas during the previous year, usage by the
6 same commercial customer shall be aggregated to include usage
7 at the same premises even if measured by more than one meter,
8 and to include usage at multiple premises. Nothing in this
9 Section creates an affirmative obligation on a gas utility to
10 monitor or inform customers or alternative gas suppliers as to
11 a customer's status as a small commercial customer as that term
12 is defined herein. Nothing in this Section relieves a gas
13 utility from any obligation to provide information upon request
14 to a customer, alternative gas supplier, the Commission, or
15 others necessary to determine whether a customer meets the
16 classification of small commercial customers as that term is
17 defined herein.

18 "Tariffed service" means a service provided to customers by
19 a gas utility as defined by its rates on file with the
20 Commission pursuant to the provisions of Article IX of this
21 Act.

22 "Transportation services" means those services provided by
23 the gas utility that are necessary in order for the storage,
24 transmission and distribution systems to function so that
25 customers located in the gas utility's service area can receive
26 gas from suppliers other than the gas utility and shall

1 include, without limitation, standard metering and billing
2 services.

3 (Source: P.A. 95-1051, eff. 4-10-09; 96-435, eff. 1-1-10;
4 96-1000, eff. 7-2-10.)

5 (220 ILCS 5/19-111)

6 Sec. 19-111. Material changes in business.

7 (a) The provisions of this Section shall apply only to
8 alternative gas suppliers serving or seeking to serve
9 residential or small commercial customers and only to the
10 extent such alternative gas suppliers provide services to
11 residential or small commercial customers.

12 (b) Alternative gas suppliers shall file with the
13 Commission a notification of any material change to the
14 information supplied in a certification application within 30
15 days of such material change.

16 (1) An alternative gas supplier shall file such notice
17 under the docket number assigned to the alternative gas
18 supplier's certification application, whichever is the
19 most recent. The supplier shall also serve such notice upon
20 the gas utility company serving customers in the service
21 area where the alternative gas supplier is certified to
22 provide service.

23 (2) After notice and an opportunity for a hearing, the
24 Commission may (i) suspend, rescind, or conditionally
25 rescind an alternative gas supplier's certificate if it

1 determines that the material change will adversely affect
2 the alternative gas supplier's fitness or ability to
3 provide the services for which it is certified or (ii)
4 require the alternative gas supplier to provide reasonable
5 financial assurances sufficient to protect their customers
6 and gas utilities from default.

7 (c) Material changes to the information contained in or
8 supplied with a certification application include, but are not
9 limited to, the following:

10 (1) Any significant change in ownership (an ownership
11 interest of 5% or more) of the applicant or alternative gas
12 supplier.

13 (2) An affiliation with any gas utility or change of an
14 affiliation with a gas utility in this State.

15 (3) Retirement or other long-term changes to the
16 operational status of supply resources relied upon by the
17 alternative gas supplier to provide alternative gas
18 service. Changes in the volume of supply from any given
19 supply resource replaced by a comparable supply resource do
20 not need to be reported.

21 (4) Revocation, restriction, or termination of any
22 interconnection or service agreement with a pipeline
23 company or natural gas company relied upon by an
24 alternative gas supplier to provide alternative retail
25 natural gas service, but only if such revocation,
26 restriction, or termination creates a situation in which

1 the alternative gas supplier does not meet the tariffed
2 capacity requirements of the relevant Illinois natural gas
3 utility or utilities.

4 (5) If the alternative gas supplier has a long-term
5 bond rating from Standard & Poor's or its successor, or
6 Fitch Ratings or its successor, or Moody's Investor Service
7 or its successor, and the alternative gas supplier's
8 long-term bond rating falls below BBB as reported by
9 Standard & Poor's or its successor or Fitch Ratings or its
10 successor or below Baa3 as reported by Moody's Investors
11 Service or its successor.

12 (6) The applicant or alternative gas supplier has or
13 intends to file for reorganization, protection from
14 creditors, or any other form of bankruptcy with any court.

15 (7) Any judgment, finding, or ruling by a court or
16 regulatory agency that could affect an alternative gas
17 supplier's fitness or ability to provide service in this
18 State.

19 (8) Any change in the alternative gas supplier's name
20 or logo, including without limitation any change in the
21 alternative gas supplier's legal name, fictitious names,
22 or assumed business names, except for logos and names the
23 alternative gas supplier provided as part of its original
24 certification process or that the alternative gas supplier
25 previously provided to the Commission under this Section.

26 (d) An alternative gas supplier shall provide annually to

1 the Commission a list of all non-tariffed services available to
2 customers in a service area for publication on the Commission's
3 website.

4 (Source: P.A. 95-1051, eff. 4-10-09.)"